

EXHIBIT D

Transcript of Walker County Civil Service Board Hearing dated 10/26/04

1 CIVIL SERVICE BOARD

2 OF WALKER COUNTY

3 GRIEVANCE HEARING

4 OCTOBER 26, 2004

5
6 REGARDING TAZ DAY BURCH

7 A.K.A. TOMMY BARRON

8
9 HEARING BEFORE

10 CHARLES STEPHENS, SR.

11
12 APPEARANCES

13 REPRESENTING THE HIRING AUTHORITY:

14 HANK WILEY

15 GARY WILLFORD

16 REPRESENTING THE GRIEVANT:

17 ANTHONY J. PIAZZA

18 BOARD MEMBERS:

19 ANDREW ARCHIE, Chairman

20 DAVID KELLY

21 RUFUS REED

22 MORRIS STUDDARD, JR.

23 DOYLE CUMMINGS

24
25 SHARON TUCKER, CLERK

1 REPORTED BY: Rhonda G. Woods

2 Certificate No. AL-CSR-228

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THE COURT: All right. Let's go ahead and call our first witness and then the other witnesses need to wait outside. Who is going to be your first

1 witness?

2 MR. PIAZZA: Actually, I would like to
3 recall Mr. Ingle. I have a few questions I need to
4 clarify with him.

5 MR. WILLFORD: I think we object to that.
6 I mean, we're two witnesses beyond that.

7 MR. PIAZZA: Well, actually, the Judge
8 testified last time.

9 MR. WILLFORD: I thought there was one other
10 person besides the Judge. At any rate --

11 MR. PIAZZA: We only have a few questions
12 that we want to put on record from Mr. Ingle. It may
13 take five minutes max.

14 MR. WILLFORD: I think we had an hour and a
15 half's worth of testimony last time. We moved on. We
16 would object to having him called again.

17 THE COURT: We're going to go ahead and
18 overrule. We're going to be pretty lenient with it, but
19 we are going to keep this is some kind of a fast moving
20 fashion tonight.

21 MR. PIAZZA: I understand and I'm right with
22 you.

23 THE COURT: Derane, go ahead and take the
24 witness stand if you will. Anybody else that's going to
25 testify, you need to wait outside.

1 DERANE INGLE

2 recalled on behalf of the grievant, having
3 previously been duly sworn, was examined and testified
4 further as follows:

5 FURTHER DIRECT EXAMINATION

6 BY MR. PIAZZA:

7 Q. Mr. Ingle, you realize that you're still
8 under oath from your testimony back in July?

9 A. Yes, sir.

10 Q. I just have a few more questions I want to
11 touch on. And one, when you went to Mr. Burch's home on
12 February 17 -- excuse me, February 16, was it -- did you
13 have an occasion to use any type of restraining pepper
14 spray or anything of that nature?

15 A. Yes, sir.

16 Q. What did you use?

17 A. Freeze.

18 Q. Okay. Is that Freeze Plus?

19 A. Yes, sir.

20 Q. How -- when did you first use that?

21 A. You talking about on Mr. Burch?

22 Q. Yes.

23 A. I was there for several minutes when --

24 Q. Excuse me. Can you turn that microphone
25 this way so we can all hear you? Go ahead. Answer my

1 question, please.

2 A. I don't remember at what point but it was
3 during the -- after the altercation and me telling him
4 that he was under arrest and I reached and grabbed for
5 his arm and he grabbed away from me and that's when I
6 sprayed.

7 Q. Once you had him subdued, and when I use the
8 term "subdued," I'm talking about in control, and had
9 the cuffs on him, did you place the cuffs on him inside
10 the home?

11 A. Yes, sir.

12 Q. Were they in front, were his hands cuffed in
13 front of him or in back of him?

14 A. In front.

15 Q. Was there an occasion for you to use the
16 Freeze Plus -- how does this come, in a small can or an
17 aerosol device?

18 A. Yes.

19 Q. How many cans do you normally carry with you
20 in your patrol car?

21 A. Just one, one on you.

22 Q. On your person? Do you have any extra cans
23 in your patrol car, in storage?

24 A. No, sir.

25 Q. Are you certified to use Freeze Plus?

1 A. Yes, sir.

2 Q. When were you certified?

3 A. Probably 1995, something like that.

4 Q. And how often do you have to be certified?

5 A. As far as I know just that once.

6 Q. Just one time?

7 A. As far as I know, yes, sir.

8 Q. Did you have any other occasion to use the
9 Freeze Plus on Mr. Burch after you took him under
10 your --

11 A. Are you asking did I spray him again?

12 Q. Yes.

13 A. No.

14 Q. After you took him under your custody?

15 A. No, sir.

16 Q. You didn't use it any more that evening?

17 A. No, sir.

18 Q. It wasn't necessary?

19 A. For me to spray him twice, no. I done had
20 handcuffs on him.

21 Q. When you placed him in the car, did you
22 place him in seat belts?

23 A. Yes, seat belt in the back.

24 Q. Now, the only other thing I want to ask you,
25 when you were the police chief at Carbon Hill, did you

1 use what's referred to as arrest tickets at any time?

2 A. Anybody that had a -- you arrested when you
3 took them into jail when you done your paperwork, here
4 at the county you go sign a warrant. When I was at
5 Carbon Hill, and these were not my rules, you signed a
6 complaint. On anybody you put in jail, you done an
7 arrest ticket on them. It's just a small piece of
8 paper. It gives their name and their Social Security
9 number. You have to put a Social Security number on it,
10 and it tells their charges and the court date.

11 Q. Is that all the information it's got?

12 A. No. It's got address and I don't know what
13 all it's got on it. It's got several items on it.

14 Q. Are they numbered?

15 A. I'm sorry?

16 Q. Are they numbered?

17 A. The arrest tickets numbered?

18 Q. Yes, sir.

19 A. I'm sure they are. I don't know.

20 Q. How long were you police chief at Carbon
21 Hill?

22 A. About a year and a half.

23 Q. You don't recall whether or not they had
24 numbers on them?

25 A. No. I'm sure it would be easy to get one to

1 check.

2 Q. Are those records permanent records at
3 Carbon Hill?

4 A. Should be. Should be in with the rest --
5 all of his filing, it should be, because he gets a copy
6 and then there is a copy for the City Hall.

7 Q. So in addition to the arrest ticket and the
8 complaint, what other -- and fingerprint record and mug
9 shot, what other documents would be at Carbon Hill --

10 A. I don't know --

11 Q. -- that would have Mr. Burch's name on it?

12 A. I don't know if there would be a mug shot or
13 not. There would be an arrest report, complaint, arrest
14 ticket, or if there is a traffic citation there is a
15 copy of that kept.

16 Q. Is that the UTC?

17 A. Yes, sir.

18 Q. Is there a jail record --

19 A. Yes, sir, there should be.

20 Q. -- if he was placed in jail?

21 A. Should be some index cards with the charges
22 on it.

23 Q. Those are kept on index cards?

24 A. That's what they used to be kept on.

25 Q. Anything else that you can think of?

1 A. Nothing I can recall.

2 Q. When did -- have you always used Freeze Plus
3 or have you ever used the pepper spray?

4 A. Yes. We used Body Guard, what they call
5 Body Guard.

6 Q. Body Guard. Is that a form of pepper spray?

7 A. Yes, sir.

8 Q. And where did you use that?

9 A. Carbon Hill.

10 Q. When you got to the county you started using
11 Freeze Plus because that's what the county uses; is that
12 correct?

13 A. Yes, sir.

14 Q. You were certified in 1995 while you were
15 still at Carbon Hill?

16 A. Yes.

17 Q. Why is that?

18 A. That's when I went through the academy.

19 Q. Okay. Now, it's your testimony that you
20 didn't use the Freeze Plus after you had Mr. Burch under
21 handcuffs; is that correct?

22 A. No, sir, I did not.

23 Q. And you placed him in handcuffs inside of
24 his home?

25 A. Yes, because when I put the handcuffs on

1 him, his wife told me to be careful because he had a
2 cast or a brace or something on his hand, and that's why
3 I put the cuffs in the front, but when he got down to
4 the jail he didn't have a seat belt on when we got to
5 the jail.

6 Q. Sir?

7 A. He didn't have a seat belt on when he got to
8 the jail but he had one on when I left his house.

9 Q. Are you saying he took the seat belt off?

10 A. It wasn't on him when he got to the jail.

11 MR. PIAZZA: That's all I have.

12 MR. WILLFORD: No questions.

13 MR. PIAZZA: My next witness will be Mr.
14 Richardson.

15 JAMES RICHARDSON

16 called on behalf of the grievant, having been
17 duly sworn by the Judge, was examined and testified as
18 follows:

19 DIRECT EXAMINATION

20 BY MR. PIAZZA:

21 Q. Mr. Richardson, how are you doing tonight?

22 A. I'm fine.

23 Q. Could you please state your full name?

24 A. James Richardson.

25 Q. What is your current position?

1 A. State of Alabama, Department of Public
2 Safety.

3 Q. Department of Public Safety?

4 A. Uh-huh.

5 Q. How long have you been with them?

6 A. Since 1990.

7 Q. And you're -- what is your position with the
8 Department of Public Safety?

9 A. Communications officer.

10 Q. Where is your office?

11 A. Hamilton.

12 Q. And are you also the mayor of the City of
13 Carbon Hill?

14 A. I was the last four years. I'm not now.

15 Q. When did you become mayor?

16 A. October of 2000.

17 Q. And how long were you mayor?

18 A. Four years.

19 Q. Up to what time?

20 A. October of this year.

21 Q. And what was the reason you stepped down
22 from that job?

23 A. I was beat in the election.

24 Q. Sir?

25 A. I was beat in the city election, lost the

1 election.

2 Q. When was that election held?

3 A. August.

4 Q. Do you know why you were subpoenaed for this
5 hearing?

6 A. I don't have the slightest idea.

7 Q. Do you know Mr. Taz Burch here?

8 A. Well, I know Tommy Barron. I don't know Taz
9 Burch.

10 Q. They're one in the same.

11 A. Okay.

12 Q. He changed his name.

13 When did you change your name?

14 MR. TAZ BURCH: February 6.

15 Q. But you know him as Tommy Barron. How long
16 have you known Mr. Barron?

17 A. About twenty or twenty-five years, I guess.

18 Q. Twenty-five years?

19 A. A long time.

20 Q. And you're familiar with where he lived
21 there in Carbon Hill?

22 A. If you're talking about up around -- yes.

23 Q. Now, while you were mayor of Carbon Hill,
24 who was your police chief?

25 A. Well, I had -- Lonny Devito was chief when I

1 started and then Derane. I think Don Frazier.

2 Q. Just the two?

3 A. Stan Bryan, I believe.

4 Q. Did they serve -- in Carbon Hill does the
5 police chief serve at your discretion, does he serve at
6 your --

7 A. He serves at the mayor's and council's
8 discretion.

9 Q. Mayor and council?

10 A. Uh-huh.

11 Q. Tell me how that works basically. If you
12 wanted to hire someone --

13 A. After an election at your first meeting
14 you'll appoint your chief of police, your city clerk,
15 your judges, prosecutors, and stuff like that.

16 Q. So you did all that back in October of 2000?

17 A. Yes.

18 Q. You made your appointments?

19 A. Or me and the council did. It takes a
20 majority to appoint.

21 Q. And you appointed Mr. Derane Ingle?

22 A. No, sir.

23 Q. He was not --

24 A. Lonny Devito was chief when I was there.

25 Q. Okay. He was your first appointment?

1 A. Yes, sir.

2 Q. How long was he the police chief?

3 A. Lonny?

4 Q. Yes, sir.

5 A. Before I got there or after?

6 Q. How long had he been there before you were
7 there?

8 A. He had been there a long time.

9 Q. How long did he remain after you arrived?

10 A. How long was it, Derane? I don't remember.

11 THE COURT: Just your best knowledge.

12 A. I'm going to say at least six months or so.
13 It wasn't --

14 Q. Six months, and then you brought Mr. Ingle
15 in?

16 A. Yes, sir. He was promoted from assistant
17 chief to chief.

18 Q. At any time while you were mayor of Carbon
19 Hill, was there any investigation on Mr. Ingle?

20 MR. WILLFORD: I'm going to object to this,
21 has absolutely nothing to do with Deputy Ingle's
22 employment with the Walker County Sheriff's
23 Department. It's outside the purview of why we're
24 here today.

25 MR. PIAZZA: I'm trying to establish a

1 history between Mr. Ingle and Mr. Burch.

2 THE COURT: This will be a good time for me
3 to make a point here. You've got four Board
4 members here to hear a grievance that's been filed
5 by Mr. Burch against Derane Ingle. In looking at
6 my notes and my looking at what we've done here
7 today so far, appears to me to be discovery type
8 information. And this Board is very patient. They
9 want to give you a full hearing, but they want to
10 hear the grievance, the facts, the circumstances
11 surrounding this grievance. So far they've heard
12 nothing.

13 If this is going to be a precursory to
14 something else, I'm going to advise you to do your
15 discovery instead of doing it in front of Board and
16 keeping this Board here for an inordinate amount of
17 time. They want to be involved, they want to hear,
18 but they want to hear a grievance, and a lot of
19 this just sounds to me like it's discovery.

20 MR. PIAZZA: I will keep his testimony very
21 short then. Let me just get to the meat of this.

22 Q. While you were mayor of Carbon Hill, do you
23 have any recollection of how many times Mr. Burch was
24 arrested by Derane Ingle?

25 A. By Derane himself, I couldn't tell you how

1 many times, no, sir. I know he was arrested several
2 times but I can't say how many times Derane arrested him
3 or any of the other officers.

4 Q. Let me ask you this: Are you familiar with
5 a -- are you familiar with the ordinances of the City of
6 Carbon Hill?

7 A. Most of them.

8 Q. And are you familiar with a nuisance type
9 ordinance that you have there?

10 A. Yes, sir.

11 Q. Are you familiar -- also familiar with an
12 ordinance prohibiting the presence of live stock within
13 the city limits?

14 A. Yes. There is an ordinance or there was
15 several years ago, but it has never been enforced.

16 Q. Never been enforced. Why is that, sir?

17 A. I guess because -- it just -- ain't really
18 had a problem with it.

19 Q. Do you ever recall Mr. Burch attempting to
20 make a complaint or file a warrant against some
21 individuals maintaining live stock within the city
22 limits?

23 A. Not to me, not trying to get no warrant or
24 nothing. There's been complaints about live stock, but
25 I don't -- I do not have anything to do with the

1 warrants. That goes through the court magistrate and
2 the police officer, and that part I didn't have nothing
3 to do with.

4 Q. Fair enough. Did you have any kind of
5 supervisory or decision making capacity over the police
6 department?

7 A. Only -- other than just things that I wanted
8 done, would tell them that, but other than that, they
9 run themselves.

10 MR. PIAZZA: I think that's all the
11 questions I have for him.

12 MR. WILLFORD: I have no questions.

13 POLLY HALEY

14 called on behalf of the grievant, having been
15 duly sworn by the Judge, was examined and testified as
16 follows:

17 DIRECT EXAMINATION

18 BY MR. PIAZZA:

19 Q. Ms. Haley, my name is Anthony Piazza. I
20 represent Derane Ingle (sic). This is a personnel board
21 hearing. Mr. Ingle -- excuse me. Mr. Burch has filed a
22 complaint, a grievance against Mr. Ingle. That's the
23 reason that you're here today.

24 Let me -- tell me your full name, please.

25 A. Polly Haley.

1 Q. Polly. How do you spell that?

2 A. Polly, P-o-l-l-y, Haley, H-a-l-e-y.

3 Q. What is your current position?

4 A. City clerk magistrate.

5 Q. Carbon Hill?

6 A. Yes.

7 Q. How long have you held that position?

8 A. Fourteen years.

9 Q. Do you know Mr. Burch here?

10 A. Yes.

11 Q. Do you know him as Tommy Barron?

12 A. Yes.

13 Q. How long have you known him?

14 A. Probably ever since I've been working for
15 the city.

16 Q. Fourteen years?

17 A. Yes.

18 Q. Do you know about how many times Mr. Barron
19 has been arrested in the City of Carbon Hill by a police
20 office with Carbon Hill?

21 A. Several times.

22 Q. Between five and ten or between ten and
23 twenty?

24 A. Probably between five and ten times.

25 Q. Five and ten times. And do you have all the

1 records?

2 A. I have some of them, yes.

3 Q. You brought some records with you?

4 A. Yes, sir.

5 Q. What records did you bring?

6 A. Here's one for harassment.

7 Q. Let me ask you this: We've heard Mr.
8 Ingle's testimony about what records are kept once
9 someone is arrested or a complaint is filed against
10 them. Let me ask you if you know what records are
11 maintained by the City of Carbon Hill?

12 A. All arrest reports.

13 Q. Arrest reports?

14 A. Complaints.

15 Q. Okay.

16 A. Complaints, witness statements, anything
17 that deals with the complaint.

18 Q. What about arrest tickets?

19 A. Yes.

20 Q. Do you have any of those with you?

21 A. No arrest tickets.

22 Q. Ma'am? No arrest tickets?

23 A. Just the arrest reports.

24 Q. But you do maintain arrest tickets, though;
25 is that correct?

1 A. Yes.

2 Q. You don't have those with you?

3 A. No. Usually what they do is they just give
4 them -- their arrest ticket shows them the court date
5 and what they are charged with.

6 Q. Court date and what they're charged with?

7 A. Yes.

8 Q. You keep a duplicate copy of that I take it?

9 A. Yes.

10 Q. Are those numbered?

11 A. Yes. We haven't used them in quite a while,
12 a long time.

13 Q. When did you stop using them?

14 A. Probably about four years ago, four or five.

15 Q. Four or five years ago?

16 A. I think so.

17 Q. Is that a state form?

18 A. No, I don't think so.

19 Q. Not a state form. Why did you stop using
20 those?

21 MR. WILLFORD: Charlie, I'm going to renew
22 my objection. If I understand this line of
23 questioning, it's to establish some kind of a link
24 between Deputy Ingle and Mr. Burch. If we could
25 get to those kind of questions.

1 MR. PIAZZA: I'll withdraw that question.

2 Q. Do you know of any ongoing dispute between
3 Mr. Burch, or Mr. Barron as you know him, and Mr. Derane
4 Ingle?

5 A. No.

6 Q. No dispute whatsoever?

7 A. No.

8 Q. Have you ever known Mr. Barron to attempt to
9 file a complaint or a warrant against anyone in Carbon
10 Hill for a nuisance, a violation, or live stock within
11 the city limits type violation?

12 A. I don't know that he's filed. I mean, he's
13 asked questions about it before.

14 Q. Has he ever attempted to file?

15 A. He may have.

16 Q. Have you ever refused to allow him to file
17 such a complaint or a warrant?

18 A. No. He would file that with the police
19 department before it would ever come to me.

20 Q. Do you recall the people he was trying to
21 file a complaint against?

22 A. Probably the Nelsons.

23 Q. The Nelsons.

24 A. Next door neighbors.

25 Q. Now, are the Nelsons related to Mr. Ingle?

1 A. Yes.

2 Q. How are they related?

3 A. By marriage.

4 Q. Not blood related?

5 A. No.

6 Q. They lived adjacent to Mr. Barron?

7 A. Yes.

8 Q. Do you recall ever having an arrest or a
9 warrant issued for the Nelsons because of a nuisance
10 that they were allegedly caused Mr. Burch?

11 A. Not right off, not without going back and
12 looking back through the records, I don't recall.

13 Q. Okay. Do you recall a number of times Mr.
14 Barron attempted to or discussed filing a warrant with
15 you concerning Mr. Ingle's relatives?

16 A. I guess there is a couple of times that he
17 called and spoke about problems that he was having, that
18 they were -- both parties were there wanting to file on
19 each other.

20 Q. The Nelsons were there wanting to file on
21 Mr. Barron?

22 A. Uh-huh.

23 Q. Did they file a complaint?

24 A. Yes, I feel certain.

25 Q. And was Mr. Barron arrested?

1 A. I believe so, at one point, yes.

2 Q. Excuse me one minute. The arrest tickets,
3 do you still have those records? Do you still have
4 those arrest tickets?

5 A. It goes back for -- a few years back, yes.
6 We should have them.

7 Q. How far do they go back?

8 A. They would have been back past 1995.

9 Q. 1995. But they still are maintained?

10 A. Yes, sir.

11 MR. PIAZZA: I think that's going to be
12 all I have for her.

13 MR. WILLFORD: Just a couple of questions.

14 CROSS-EXAMINATION

15 BY MR. WILLFORD:

16 Q. Ms. Haley, I'm Gary Willford. I represent
17 the Hiring Authority in this hearing, Sheriff Tirey.
18 Were there -- you testified that there was some
19 complaints from the Nelsons about Mr. Burch; what were
20 the nature of those complaints?

21 A. There was a complaint filed for menacing, he
22 was swinging a baseball bat and pulled a knife. One
23 time I think there was -- where he shot into their
24 house.

25 Q. Were those all the complaints that you're

1 aware of?

2 A. Yes.

3 Q. Each one of those were for menacing?

4 A. This one was, yes.

5 Q. What other complaints were there?

6 A. Just on the menacing where that he -- like
7 swung the base ball bat, pulled a knife.

8 Q. Okay. At any time while Deputy Ingle was
9 the chief of police there at Carbon Hill, did he speak
10 with you and ask you not to accept complaints from Mr.
11 Burch or attempt to interfere with you in any way in the
12 performance of your duties with respect to Mr. Burch?

13 A. No.

14 MR. WILLFORD: That's all the questions I
15 have.

16 REDIRECT EXAMINATION

17 BY MR. PIAZZA:

18 Q. What's the case number in the year of the
19 menacing charge you mentioned now?

20 A. Case number was MC-95-238.

21 Q. 95-238?

22 A. Yes.

23 Q. What was the disposition of that charge?

24 A. Pled guilty.

25 Q. Pled guilty?

1 A. Uh-huh, and was to stay away from the
2 prosecuting witness.

3 Q. What other charges do you have there for Mr.
4 Burch?

5 A. I have an unlawful possession of alcoholic
6 beverages, and that's MC-98-025.

7 Q. MC-98-025.

8 A. And it was dismissed on plea agreement.

9 Q. Dismissed?

10 A. Uh-huh, on a plea agreement.

11 Q. Could I see that record, please?

12 A. (Witness complies.)

13 Q. What other charges do you have?

14 A. I have a harassment communication.

15 Q. What was the disposition on that one?

16 A. Dismissed on recommendation of the city.

17 Q. Was that one filed by Mr. -- was that the
18 complaint of Mr. Ingle?

19 A. Yes. He was the officer.

20 Q. On the unlawful possession, was the
21 complaint of Mr. Ingle?

22 A. Yes.

23 Q. Could I see those two, please? Do you have
24 any more charges that were dismissed in your possession
25 for Mr. Burch?

1 A. I have an unlawful possession again, twice,
2 and then he has a public intoxication that he pled
3 guilty on.

4 Q. Unlawful possession again?

5 A. Two of them.

6 Q. Two of those. Who were the complainants on
7 those?

8 A. Derane Ingle.

9 Q. Ingle. Were those also dismissed?

10 A. Yes.

11 Q. Could I see those?

12 A. (Witness complies.)

13 Q. Let me ask you to look at this one. Now,
14 it's your job as a magistrate when you accept a
15 complaint by someone, it should be a sworn complaint; is
16 that correct?

17 A. Correct.

18 Q. Now, if you notice on that one, what's the
19 number of that particular complaint?

20 A. MC-97-270.

21 Q. MC-97-270. Is it your practice to accept
22 unsworn complaints?

23 A. No. They swear to the complaints to me, but
24 on this occasion I forgot to sign this one and I believe
25 that's the reason it was maybe dismissed.

1 Q. So you generally notarize the complaint
2 yourself?

3 A. Yes.

4 Q. You're a Notary Public?

5 A. Yes.

6 Q. But you just didn't --

7 A. I forgot to sign this one.

8 Q. And that one was dismissed also?

9 A. Yes.

10 Q. Which one of these -- do you have any more
11 complaints with you? I counted five. Was there any
12 more than that?

13 A. (Witness shakes head.)

14 Q. No?

15 A. No.

16 Q. There was five of them. Now, four of which
17 were dismissed --

18 A. Uh-huh.

19 Q. -- is that correct?

20 A. That's correct.

21 Q. Ma'am?

22 A. Yes, that's correct.

23 Q. And the one menacing, 95-238 --

24 A. He pled guilty.

25 Q. Pled --

1 A. Public intoxication he pled guilty.

2 Q. Public intoxication. What year was that?

3 A. '97, I believe.

4 Q. Now, if you could go to the harassment
5 complaint filed by Mr. Ingle.

6 A. Okay.

7 Q. What case number is that?

8 A. MC-95-333.

9 Q. And that one was filed the same year as the
10 menacing complaint; is that correct?

11 A. Yes.

12 Q. And that one was dismissed by a plea
13 agreement?

14 A. The harassment.

15 Q. The harassment one?

16 A. Yes, sir. And was dismissed on the
17 recommendation of the city.

18 Q. Recommendation of the city. Were you in
19 court -- are you normally in court when these cases are
20 heard?

21 A. Yes.

22 Q. Do you recall that particular case?

23 A. The best I can remember, yes.

24 Q. Okay. What judge was sitting at that time?

25 A. Steve Thomas.

1 Q. Steve Thomas?

2 A. Yes.

3 Q. And do you recall the exact terms of the
4 recommendation, do you recall why they recommended that
5 case be dismissed?

6 A. They worked that out with the prosecutor,
7 the police officer and the prosecutor and the defendant
8 worked that out in the prosecutor's office.

9 Q. But you don't have any personal knowledge of
10 the terms?

11 A. No, sir.

12 Q. Or the conditions in which that case was
13 dismissed?

14 A. No.

15 Q. Okay.

16 MR. PIAZZA: I think that's all I have for
17 her.

18 MR. WILLFORD: I don't have any.

19 THE COURT: Polly, you're excused.

20 (Short recess.)

21 THE COURT: Mr. Burch, did I put you under
22 oath earlier? Let's just be sure.

23

24

25

1 TAZ DAY BURCH

2 called on his own behalf, having been duly sworn
3 by the Judge, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. PIAZZA:

6 Q. Mr. Burch, may I call you Taz?

7 A. Yes.

8 Q. You're the complainant in this hearing?

9 A. Yes.

10 Q. And I'm assuming that the Board has a copy
11 of the complaint.

12 THE COURT: We do.

13 Q. And it's your testimony, it's your
14 complaint, that Mr. Derane Ingle, who is a deputy
15 sheriff for the county, Walker County, injured you on
16 the evening of February 16, 2004?

17 A. Correct.

18 Q. Is that correct?

19 A. Correct.

20 Q. And it's also your testimony that the
21 dispute between you and Mr. Ingle goes back several
22 years; is that correct?

23 A. Well --

24 Q. Without getting into that background, what I
25 would like for you to do is to the best of your

1 recollection do you recall what day February 16, 2004
2 fell on?

3 A. Not quite the day but it was the 2nd and
4 16th.

5 Q. Pardon me?

6 A. The 2nd and 16th.

7 Q. Do you recall what day that was? Was it a
8 Monday or Tuesday?

9 A. Monday morning at 2:00 o'clock.

10 Q. Monday morning at 2:00 o'clock.

11 A. The 16th.

12 Q. 2:00 o'clock a.m.?

13 A. Yes.

14 Q. Tell the personnel Board what occurred the
15 day before on February 15th, if anything, regarding an
16 injury that you received.

17 A. I was trying to push around with the hot
18 water, the heater, and I fractured this thumb right here
19 (indicating). And I went to the emergency room at
20 Winfield, and they x-rayed my whole hand. And they had
21 -- it showed a plain fracture in my thumb, and they put
22 a little stint and then they wrapped it around with an
23 ace bandage.

24 And I went there it was about 2:00 o'clock.
25 From there I came back to visit my brother, Gene Barron,

1 and I stayed there from around 5:30 or 6:00 to about
2 9:30. And me and my wife Patsy went home, and we was
3 sitting up watching TV.

4 And then she was going to go to bed, and I
5 didn't want her to. I wanted her to stay up and talk to
6 me. I may have had a little bit of medical problems
7 like I didn't realize I was having and I had to go to
8 the mental health, but I didn't want her to go to bed
9 but she didn't want to stay up. I called 911. I
10 shouldn't have called them, because we weren't fighting.

11 But they said they had to send an officer
12 out to check on me, and they did. And Derane came, and
13 they should have sent another officer out to check the
14 situation and see if they had one on duty, because of
15 all the conflict we had in the past.

16 If we had a camera on, it would have been
17 nice to get to see the show. We had the camera off. I
18 was handcuffed in the back, and I know that stuff is
19 pretty powerful, because I've been sprayed with it
20 before in the past.

21 Q. Let me stop you right there.

22 A. He was pushing me and throwing me, and I
23 couldn't see.

24 Q. Let me stop you right there and let's go
25 back. You say after you left -- is that the Winfield

1 Medical Center?

2 A. I went there Sunday the 15th.

3 Q. And then from there after you received
4 treatment for your thumb, they did take x-rays; is that
5 correct?

6 A. Complete, whole hand x-rays.

7 Q. After there, you left there and you went to
8 see your brother, Gene Barron?

9 A. Yes.

10 Q. You and your wife Patsy; is that correct?

11 A. Yes.

12 Q. And after that you came back home and you
13 wanted Patsy to stay up with you.

14 A. Yeah.

15 Q. Were you drinking?

16 A. I was drinking.

17 Q. How much had you had to drink that night?

18 A. Probably about four. I think about four
19 beers.

20 Q. Four beers, okay. And do you recall what
21 time you called 911?

22 A. Somewhere around, I guess, had to be about
23 1:00 o'clock, I guess, about 1:00 o'clock.

24 Q. Do you recall what you stated to the 911
25 operator?

1 A. Yes.

2 Q. What did you state to the 911 operator --
3 was it male or female?

4 A. It would be male or female.

5 Q. Sir?

6 A. It was a male or female. It was a woman.

7 Q. A female. Do you recall what you stated to
8 her?

9 A. Yes. By that time I had hung the phone up,
10 and she was still talking to them, and Patsy told them
11 that we didn't need nobody out there. We wasn't
12 fighting or fussing.

13 Q. So she got on the phone too --

14 A. Yeah, she was telling them we didn't need --

15 Q. -- with the 911 operator?

16 A. So I just went on and went to bed. I said
17 to heck with it. I went on in and went to bed and went
18 to sleep.

19 Q. So she told them that --

20 A. She stayed up.

21 Q. -- y'all really didn't need anybody to come
22 out there?

23 A. Very well. She explained it to Derane when
24 he got there.

25 Q. All right. Well, let's take this one step

1 at a time. After you made your 911 call, was Patsy
2 still on the phone?

3 A. Yes, sir.

4 Q. What did you do while she was on the phone?
5 You said you went to bed?

6 A. Went to sleep.

7 Q. You just went on to sleep?

8 A. After talking to the 911 on the phone.

9 Q. Okay. What is the next thing that you
10 remember?

11 A. A bunch of hollering and screaming out loud
12 and cussing and carrying on.

13 Q. All right. Let's start right there.

14 A. That's enough to wake me up.

15 Q. Tell me how -- tell me how -- were you
16 awakened by all this?

17 A. Yes.

18 Q. What time was that?

19 A. About 2:00 or 2:30.

20 Q. 2:00 or 2:30. And whose voice awakened you?

21 A. Derane's.

22 Q. Derane Ingle. Were you in your bedroom
23 asleep?

24 A. Yes.

25 Q. Where was he at the time?

1 A. My wife asked him not to come in.

2 Q. Answer my question. Where was he at the
3 time you first heard his voice?

4 A. He barged in behind my wife.

5 Q. No. I want you to answer my question.

6 A. He was in my living.

7 Q. He was in your living room?

8 A. Screaming and hollering, raising Cane.

9 Q. What was he saying to you?

10 A. First off he told my wife Patsy to hang up
11 the G.D. phone. She was calling my brother Gene.

12 Q. Now, when you first heard his voice, you
13 were in your bedroom?

14 A. I had to get out of bed.

15 Q. Where was he? Where was he?

16 A. He was in the living room.

17 Q. He was in the living room. Was the door
18 opened?

19 A. Yes.

20 Q. Could you see him?

21 A. The door was still opened, and he was
22 standing in the middle of my living room.

23 Q. When he started calling you to get up, could
24 you still -- could you see him?

25 A. No. I was in the bedroom. About from here

1 to that wall there to the back bedroom to the living
2 room would be about from here to back there would be my
3 bedroom, against that wall (indicating).

4 Q. Against this wall here (indicating)?

5 A. From this far to the living room.

6 Q. That's a pretty good distance. You're
7 talking about a good 20 yards.

8 A. He was hollering loud.

9 Q. So is your bedroom at one end of your
10 trailer?

11 A. Yes, sir.

12 Q. He was at other end; is that what you're
13 testifying?

14 A. Yes.

15 Q. Is there like a hallway?

16 A. Uh-huh.

17 Q. Was he at one end of the hallway and you
18 were at the other?

19 A. He was standing right square in the middle
20 of the living room.

21 Q. In the living room. Is the living room at
22 the opposite end of your trailer?

23 A. Yes.

24 Q. Okay. Now, when you heard his voice, that
25 awakened you; is that correct?

1 A. Yes.

2 Q. You got up. What did you do next?

3 A. I got out of bed, walked in the living room
4 to see what was going on, and I just had my underwear
5 and t-shirt on.

6 Q. Okay. When you got to the living room, what
7 did you see?

8 A. I seen Derane standing on the other side of
9 my wife, but my wife was in between and she was doing
10 like this (indicating). She asked him to leave, and he
11 would not leave. Said he had to talk to me, and he told
12 me to sit down, which there wasn't no place to sit right
13 there. And I was going -- I thought if I could get over
14 to the couch, I would get to couch.

15 Q. All right.

16 A. I didn't make it to the couch before he
17 sprayed me with that stuff.

18 Q. Before we get to that point, when you got
19 into the living room, your wife was standing between him
20 and you?

21 A. Yes.

22 Q. She was going like this (indicating), spread
23 eagle; is that correct?

24 A. Yes, that far apart.

25 Q. He was behind her?

1 A. He was -- she was in between me and him.

2 Q. So, he was behind her; is that correct?

3 A. He came in the door behind her in the living
4 room, and when I came in the living room, she was in
5 between me and him going like this (indicating).

6 Q. All right. So, he was at one end of her arm
7 and you were at the other end, like this, you were here
8 (indicating)?

9 A. Right in the middle.

10 Q. And she was there. Now, did he have --

11 A. I was just in my underwear and t-shirt.

12 Q. Did he have a weapon drawn?

13 A. At that time I didn't see no weapon drawn.

14 Q. What happened next?

15 A. He ordered me to sit down and right there I
16 had to sit in the floor in the hallway, and I was going
17 to sit down on the couch but for some reason or another
18 he reached around trying to spray me in the face with
19 that stuff and I was blinded.

20 Q. Right before he did that, did you and he
21 have any words?

22 A. The only thing I said is, "My past is coming
23 back to haunt me."

24 Q. Your past is coming back to haunt you?

25 A. My past is coming back to haunt me, because

1 I tried to get away and I moved out of town to get away
2 from him and his in-laws, and dog if he didn't find a
3 way to attack me, to get to me.

4 Q. So he reached around --

5 A. Attacked me, sprayed my face with that
6 stuff.

7 Q. Did you threaten him at all?

8 A. No. Didn't cuss him, didn't threaten him.
9 I wished he could find it on tape there, that way we
10 would know for sure.

11 Q. All right.

12 A. Because I didn't cuss him or threaten him.

13 Q. Hold on one second. You say he reached
14 around your wife Patsy and sprayed you with something?

15 A. Yes. I know it was stronger than pepper.

16 Q. Tell me what the immediate effect of that
17 was.

18 A. I didn't know what it was but I couldn't see
19 nothing.

20 Q. You couldn't see anything?

21 A. Couldn't see. He kind of pushed her out of
22 the way and handcuffed me like this behind my back.

23 Q. Let me stop you right there.

24 A. And threw me over the recliner --

25 Q. Taz, let me stop you right there.

1 A. -- and I landed on my head in the floor.

2 Q. Let me stop you right there. You say he
3 sprayed you in the face. How close was he, how close
4 was his hand to your face?

5 A. Patsy's arm ain't as long as mine. I would
6 say around four feet, maybe a little better than four
7 foot.

8 Q. You didn't use any threatening words against
9 him?

10 A. I was just like this until he sprayed me in
11 the face, and all I could do -- my nightmare has come
12 back to haunt me.

13 Q. All right. After he sprayed you in the
14 face, were you immediately blinded by this?

15 A. Yes, sir, I couldn't see.

16 Q. How long were you blinded?

17 A. I was blinded halfway, he threw me out the
18 door in my underwear and shirt.

19 Q. No, answer my question. How long were you
20 blinded?

21 A. Approximately all the way to the jail house,
22 because he stopped and sprayed me some more and hit --
23 slinging me, open the back door trying to drag me out.

24 Q. You were blinded from the time you left the
25 trailer all the way to the jail house, is that correct,

1 you couldn't see?

2 A. I think I measured 35 feet from my front
3 door before he put me in the back of that car, he was
4 still spraying me with that stuff, and I've got pictures
5 of it on the ground.

6 Q. All right. Now, once you were blinded, what
7 did you do?

8 A. He tell me to do this and tell me to do
9 that, and I couldn't see.

10 Q. What was he telling you, to be specific?

11 A. Get up, and pushed me out the door. I hit
12 her car, bounced back on the door step. He was throwing
13 me around like a rag doll, telling me to get in the car;
14 where is the car, I didn't know.

15 Q. Were you on the floor?

16 A. He throwed me out the door, hit the car,
17 bounced back in on my steps and hit my back.

18 Q. All right. Wait. Did you have --

19 A. Patsy begged him to let me put some pants on
20 me, and then he throwed me back in the house.

21 Q. Okay. So you didn't have any -- your pants
22 on at this time?

23 A. Nun-uh.

24 Q. Did he handcuff you?

25 A. Handcuffed behind my back.

1 Q. When did he handcuff you?

2 A. Right after he sprayed me in the face with
3 that stuff, turned me around and handcuffed me.

4 Q. Okay.

5 A. He threw me around in the house and I
6 flipped over a recliner.

7 Q. You flipped over a recliner?

8 A. Yeah. Her mother's recliner she inherited
9 because -- her mother's recliner, tumped me over into
10 it. I couldn't get up, because if I was handcuffed in
11 the front, I could have helped myself get up, but back
12 here in handcuffs behind my back, I couldn't help myself
13 get up.

14 Q. Okay. So you were handcuffed in the back.
15 Did you have any clothes on other than your shorts and
16 t-shirt?

17 A. Underwear and a shirt.

18 Q. After he handcuffed you, what did you do?
19 What did he do with you?

20 A. After he put the handcuffs on me?

21 Q. Yes.

22 A. Threw me over there in the recliner and it
23 turned over in the floor and landed up on my head.

24 Q. You hit your head?

25 A. On the floor. On the pieces of the tile in

1 the kitchen part, hard as that. Well, then he picked me
2 back up from there and sat me back in the recliner after
3 he threwed me back in the house. Patsy was begging him
4 to let me put him some pants on. And she took
5 everything out of my billfold, and he didn't have
6 nothing proving my name had been changed on the 6th of
7 February. He just assumed --

8 Q. Let's stop right there. You say Patsy was
9 begging him to let you go put some clothes on. Did he
10 ever tell you you're under arrest?

11 A. No, not that I know of.

12 Q. He never did tell you you were under arrest?

13 A. I could hear him. He didn't say you're
14 under arrest.

15 Q. Did he ever tell you --

16 A. He just said, "You're going to jail."

17 Q. You're going to jail. Did he tell you what
18 you were being charged with?

19 A. No, sir. I even tried to ask the jailer
20 that after --

21 Q. Well, we'll get to that point. We'll get to
22 that point. Did you -- when did you put your clothes
23 on?

24 A. Patsy put my pants on.

25 Q. While you had your handcuffs on?